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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,320	02/02/2001	Helmuth Gabl	ANDPAT/150/US	9342

7590

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EXAMINER

SAVAGE, MATTHEW O

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 05/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/776,320

Applicant(s)

GABL ET AL.

Examiner

Matthew O Savage

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Applicant's election of group I in Paper No. 9 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the feature(s) canceled from the claim(s):

The limitation of the protrusions being positioned at the recited distance  $h_1$  lacks antecedent basis in the specification;

The limitation of the supporting elements having an I-shape as recited in claim 12.

No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The concept of the protrusions being positioned at the recited distance  $h_1$  lacks antecedent basis in the specification.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 499154.

With respect to claim 1, '154 discloses a plurality of screen rods 3 each having side walls 7, 8 (see FIG. 2), at least one of the side walls defining at least one protrusion 36, at least one rod bearing support element 1' having a shape that is complementary to the protrusion of the rod, wherein each protrusion of the rod is received within a recess of the supporting element.

Regarding claim 8, '154 discloses the rods as having an embedded portion pressed together with the supporting element (e.g., due to the clamping force exerted upon the rods by the supporting elements).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-7, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 499,154.

Concerning claim 2, 6, and 12, '154 fails to specify the limitation of the circular or elliptic shape or the protrusions as recited in claim 2, the limitation of the supporting elements as having a T-shape as recited in claim 6, or the limitation of the supporting elements as having an I-shape as recited in claim 12, however, such changes in shape are considered obvious absent any persuasive evidence that such configurations are structurally significant (see *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)).

With respect to claim 3, '154 discloses each of the rods as having an embedded end with at least one of the rods having a plurality of protrusions 36, 36'. '154 fails to specify the protrusions as being positioned at a distance  $.1\text{mm} < h_1 < 6\text{mm}$ , however, such relative dimensions are not considered to be a patentable distinction since the instant invention would not appear to function any differently than the '154 device.

Regarding claims 4 and 5, '154 fails to specify the limitation of the rods as having three or more protrusions received within recesses in one side wall of the supporting elements as recited in claim 4, or the limitation of the first sidewall as having a different number of protrusions than the second sidewall as recited in claim 5, however, the mere duplication of parts / number of protrusions is not considered to be patently significant unless a new and unexpected result is produced (see *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)).

With respect to claim 7, '154 discloses each of the rods as having a total height H and an embedded portion protruding into the supporting element having a height h but fails to specify the ratio of h to H as being greater than 0.5, however, such relative

dimensions are not considered to be a patentable distinction since the instant invention would not appear to function any differently than the '154 device.

With respect to claim 11, '154 discloses the protrusions 36 as having a radius  $r$  (e.g., at opposite sides of the protrusion) but fails to specify  $.1\text{mm} < r < 2\text{mm}$ , however, such relative dimensions are not considered to be a patentable distinction since the instant invention would not appear to function any differently than the '154 device.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda W. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3602 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Application/Control Number: 09/776,320  
Art Unit: 1723

*M. Savage*  
Matthew O Savage  
Primary Examiner  
Art Unit 1723

mos  
May 23, 2002